

THIRD DIVISION

[G.R. No. 151240, March 31, 2009]

**ANGELINE CATORES, PETITIONER, VS. MARY D. AFIDCHAO,
RESPONDENT.**

D E C I S I O N

NACHURA, J.:

Before this Court is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Court of Appeals (CA) Decision,^[2] dated October 23, 2000, which affirmed the Decision^[3] of the Regional Trial Court (RTC) of Baguio City, dated June 6, 1990.

The facts as narrated by the CA are as follows:

Plaintiff-appellee, Mary D. Afidchao [respondent], is the registered owner of a parcel of land with an area of 8,383 sq. meters situated in Residence Section "J," Sto. Tomas, Barangay Dontogan, Baguio City and covered by [Transfer Certificate of Title] TCT No. T-27839. The said parcel of land was purchased by plaintiff-appellee from its previous registered owners, spouses Isidoro and Nellie Balinsat on August 29, 1977.

Immediately thereafter, plaintiff-appellee declared the aforesaid property for tax purposes in her name under Tax Declaration No. 23347 and paid religiously the realty taxes thereon.

Sometime in June 1984, defendant-appellant, Angeline Catores [petitioner], occupied and entered a portion of the subject property by building her house thereon and making improvements therein such as levellings, riprapping, planting trees, fencing, etc. Thus, on August 2, 1984, plaintiff-appellee filed a case for Forcible Entry against defendant-appellant with the Municipal Trial Court [MTC] of Baguio which ordered a verification relocation survey of the subject property on January 7, 1985. Without, however, waiting for the result of the relocation survey, the MTC dismissed the complaint on February 5, 1985 on the ground that the real issue is one of legal possession and that the remedy is *accion publiciana*, adding that an administrative action like a verification relocation survey might resolve the matter.

The verification and relocation survey conducted by the Office of the Bureau of Lands of Baguio City pursuant to the aforementioned Order dated January 7, 1985 confirmed the allegation of plaintiff-appellee that defendant-appellant encroached on the former's titled property by constructing a house with a calculated size of 8' x 10' and by destroying some of the stonewallings within the subject property. Hence, plaintiff-

appellee required defendant-appellant to vacate the portion illegally occupied and to remove the improvements made thereon, which the latter refused.

Consequently, on August 13, 1985, plaintiff-appellee filed a complaint for *Accion Publiciana* against defendant-appellant.

In her Answer, defendant-appellant raised the defenses *inter alia* that she has been in possession of the land in question as early as 1977; that the land in question is not within the property of anybody, including the plaintiff-appellee; and that her possession of the land in question is with color of title.^[4]

The RTC's Ruling

On June 6, 1990, the RTC ruled in favor of respondent, giving great weight to the findings of Mr. Edilberto R. Quiaoit (Quiaoit), head of the survey team of the Bureau of Lands, who conducted the relocation verification survey of the subject property. Further, the RTC said that these findings of Quiaoit were corroborated by the geodetic engineer, Venancio Figueres^[5] (Engr. Figueres), who conducted the subdivision survey of the subject property for respondent in December 1977. Hence, the trial court declared that these findings ought to prevail over those of geodetic engineer Jose Fernandez (Engr. Fernandez), petitioner's expert witness. The RTC also ratiocinated that as between respondent who had a title and a tax declaration over the subject property, who paid the taxes due thereon, and acquired the same by purchase from the original registered landowners, and petitioner who had no title or tax declaration, and was not shown to have acquired any title from the Sunrise Village Association, preponderance of evidence was in favor of respondent. Thus, the RTC disposed of this case in this wise:

WHEREFORE, judgment is rendered in favor of the plaintiff Mary Afidchao and against defendant Angeline Catores, as follows:

1. Declaring the land in question consisting of about 2,138 sq. meters located at Residence Section J, Sto. Tomas, Barangay Dontogan, Baguio City, occupied by defendant Angeline Catores as part of the land owned by plaintiff Mary Afidchao covered by TCT 27839 and therefore plaintiff has a better right to possess the same as the owner of the land is entitled to the possession hereof as a consequence of her ownership;
2. Declaring that the house, the levellings, plants, trees, fence, garden, riprapping and other improvements of defendant Angeline Catores on the land in question are inside the titled land of plaintiff Mary Afidchao covered by TCT 27839 and therefore defendant must vacate the premises of the land in question and restore possession thereof to plaintiff and remove her house and other structures provided the same can be done without damage to the plaintiff's titled land within 30 days from the time this Judgment becomes final and executory;

3. Ordering defendant Angeline Catores to cease and desist from further disturbing the ownership and possession of plaintiff of the land in question which is part of plaintiff's titled land covered by TCT 27839 described in paragraph 2 of the Complaint.
4. Dismissing the claim for Exemplary damages, Attorney's fees and litigation expenses of plaintiff there being no gross and evident bad faith shown on the part of defendant Angeline Catores;
5. Dismissing the counterclaim of defendant Angeline Catores for Moral damages, Attorney's fees and litigation expenses for lack of merit; and
6. Ordering defendant Angeline Catores to pay the costs of the suit.

SO ORDERED.^[6]

Petitioner filed a Motion for Reconsideration,^[7] which was, however, denied by the RTC because the matters treated therein had been fully considered, discussed and resolved in the RTC decision and the RTC found no cogent reason to change or disturb the same.^[8] Aggrieved, petitioner appealed to the CA.^[9]

After both parties had filed their respective briefs, on July 18, 1992, petitioner filed an Urgent Motion for New Trial and/or Reception of New Evidence^[10] before the CA claiming that these pieces of newly discovered evidence could not have been discovered and produced before the RTC. Petitioner alleged that she did not get any cooperation from the Bureau of Lands-Baguio City. Respondent filed her Opposition^[11] thereto, arguing that the pieces of evidence sought to be introduced were not, at all, newly discovered evidence for they were the same pieces of evidence submitted before the RTC. Moreover, respondent opined that the Motion was filed out of time because it should have been filed after judgment by the trial court but before the lapse of the period for perfecting an appeal, and not after the appealed case had already been submitted for resolution. Finding merit in respondent's Opposition, the CA denied petitioner's Motion.^[12]

The CA's Ruling

On October 23, 2000, the CA affirmed the RTC's ruling, holding that:

Admittedly, there is evidence to support the allegation of discrepancy in the technical description of the plaintiff-appellee's title. But this does not mean that the property covered by the title cannot be concretely located as to warrant the dismissal of the case. The title is just an evidence of ownership but it does not vest ownership. Moreover, it is an undisputed fact that other than the title itself, the actual location of a given property can still be identified by referring to the control map of the Bureau of Lands and/or by relocating the same using at least three existing monuments which are verified to be correct.

The foregoing may explain why despite the conflicting testimonies of Quiaoit and Engr. Figueres on whether or not there was a discrepancy in

the technical description of plaintiff-appellee's title, they still arrived at the same conclusion - that the questioned lot being occupied by defendant-appellant is within the property of plaintiff-appellee. Quiaoit used both the control map of the Bureau of Lands and the existing monuments in making his findings, while Engr. Figueres, though he relied on the plaintiff-appellee's title, still made use of the existing monuments. Thus, plaintiff-appellee was able to concretely identify her property and accordingly proved that the questioned lot being occupied by defendant-appellant is within her property. The testimony of defendant-appellant's witness, Medino Balusdan, that the questioned lot being occupied by defendant-appellant is within the land owned by one Balinsat from whom, indisputably, plaintiff-appellee acquired the subject property, corroborates the said findings.

What further wreck havoc in the case of defendant-appellant are the admissions on cross-examination of her expert witness, Engr. Fernandez, that the subject properties adjoin each other thereby recanting his earlier testimony to the contrary; that he failed to conduct an ocular inspection on the subject properties and that he likewise failed to take into account the actual location of the monuments in formulating his findings.^[13]

The CA likewise referred to the Report^[14] of the ocular inspection of the subject property conducted on February 16, 1990, made by Atty. Ma. Clarita C. Tabin, Branch Clerk of Court of the RTC (Clerk of Court), in support of the CA's finding that indeed petitioner encroached into the property of respondent.

Petitioner filed a Motion for Reconsideration^[15] which the CA denied in its Resolution^[16] dated December 19, 2001 for lack of merit.

Hence, this Petition raising the following grounds:

A.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN BASING ITS DECISION IN FAVOR OF AFIDCHAO ON THE PRINCIPLE THAT THE TITLE IS JUST AN EVIDENCE OF OWNERSHIP BUT DOES NOT VEST OWNERSHIP, WHICH PRINCIPLE IS TOTALLY IRRELEVANT TO THE CONTROVERSY.

B.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN DECIDING IN FAVOR OF AFIDCHAO, DESPITE THE FATAL DEFECT IN THE TECHNICAL DESCRIPTION OF AFIDCHAO'S TORRENS TITLE, THEREBY CONTRADICTING THE DOCTRINAL RULINGS OF THE SUPREME COURT IN MISA VS. COURT OF APPEALS (212 SCRA 217) AND LORENZANA FOOD CORPORATION VS. COURT OF APPEALS (231 SCRA 713).

C.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN HOLDING THAT TITLED PROPERTY CAN STILL BE IDENTIFIED BY MEANS

OTHER THAN THE DEFECTIVE TECHNICAL DESCRIPTION THEREOF.

D.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN HOLDING THAT AFIDCHAO'S PROPERTY WAS IDENTIFIED BY REFERRING TO A SUPPOSED CONTROL MAP OF THE BUREAU OF LANDS, WHICH, HOWEVER, WAS NOT INTRODUCED AS EVIDENCE IN THE CASE.

E.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR [OF] LAW IN HOLDING THAT AFIDCHAO'S PROPERTY WAS IDENTIFIED BY WAY OF RELOCATION BASED ON THREE (3) EXISTING MONUMENTS THE INTEGRITY OF WHICH, HOWEVER, WAS ADMITTEDLY NEGATED.

F.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN HOLDING THAT AFIDCHAO'S PROPERTY WAS IDENTIFIED BY THE OBSERVATIONS OF THE BRANCH CLERK OF COURT IN A SUPPOSED REPORT THAT WAS NOT EVEN MENTIONED BY THE TRIAL COURT IN ITS DECISION.

G.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN FOCUSING AND RELYING ON SUPPOSED WEAKNESSES IN THE TESTIMONIES OF CATORES' WITNESSES, THEREBY CONTRADICTING THE DOCTRINAL RULING OF THE SUPREME COURT IN MISA VS. COURT OF APPEALS (212 SCRA 217) TO THE EFFECT THAT A PLAINTIFF WHO SEEKS TO RECOVER PROPERTY MUST RELY ON THE STRENGTH OF HIS TITLE AND NOT ON THE SUPPOSED WEAKNESS OF THE DEFENDANT'S CLAIM.

H.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN DECIDING IN FAVOR OF AFIDCHAO ON THE BASIS OF SUPPOSED BUT NON-EXISTENT WEAKNESS IN THE EVIDENCE OF CATORES.

I.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN CLOSING ITS EYES TO THE NEWLY-DISCOVERED [PIECES OF] EVIDENCE OF CATORES WHICH FURTHER STRENGTHEN HER POSITION THAT HER LOT IS NOT WITHIN THE LAND OF AFIDCHAO.

J.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN AFFIRMING INSTEAD OF REVERSING THE DECISION OF THE TRIAL